



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,578	06/04/2001	Roger Flores	PALM-3644.US.P	5683

7590 11/02/2004

WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market Street
San Jose, CA 95113

EXAMINER

PATEL, HARESH N

ART UNIT PAPER NUMBER

2154

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

8

Office Action Summary

Application No.

09/874,578

Applicant(s)

FLORES ET AL.

Examiner

Haresh Patel

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 0204.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-20 are presented for examination.

Response to Arguments

2. Applicant's arguments filed 8/19/04 have been fully considered but they are not persuasive. Therefore, rejection of claims 1-20 is maintained.

Applicant argues (1) Choate, US Pub. 2001/0054026 A1, Dec. 20, 2001, does not disclose “measuring usage of the first portion of content allows tracking of how much of the content is used”. The examiner disagrees. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies “measuring usage of the first portion of content allows tracking of how much of the content is used” is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore the rejection is maintained as disclosed above. The claim is open-ended (comprising) and has several different not-related content. Also, page 17, lines 7-11, clearly states, “While the present invention has been described in particular embodiments, it should be appreciated that the present invention should not be construed as limited by such embodiments, but rather construed according to the below claims”. Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of these actions. Therefore, Choate meets the claimed limitations.

Applicant argues (2) Choate does not disclose “tracking information about portions of content”. The examiner disagrees. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies “tracking information about portions of content” is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore the rejection is maintained as disclosed above. The claim is open-ended (comprising) and has several different not-related content. Also, page 17, lines 7-11, clearly states, “While the present invention has been described in particular embodiments, it should be appreciated that the present invention should not be construed as limited by such embodiments, but rather construed according to the below claims”. Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of these actions. Therefore, Choate meets the claimed limitations.

Applicant argues (3) Choate does not disclose “tracking levels in a game”. The examiner disagrees. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies “tracking levels in a game” is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore the rejection is maintained as disclosed above. The claim is open-ended (comprising) and has several different not-related content. Also, page 17, lines 7-11, clearly states, “While the present invention has been described in particular embodiments, it should be appreciated that the present invention should not be

Art Unit: 2154

construed as limited by such embodiments, but rather construed according to the below claims”.

Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of these actions. Therefore, Choate meets the claimed limitations.

Applicant argues (4) Choate does not disclose “tracking levels in a game”. The examiner disagrees. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies “tracking levels in a game” is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore the rejection is maintained as disclosed above. The claim is open-ended (comprising) and has several different not-related content. Also, page 17, lines 7-11, clearly states, “While the present invention has been described in particular embodiments, it should be appreciated that the present invention should not be construed as limited by such embodiments, but rather construed according to the below claims”. Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of these actions. Therefore, Choate meets the claimed limitations.

Applicant argues (5) Nakijima does not disclose “tracking information about portions of content”. The examiner disagrees. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies “tracking information about portions of content” is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore the rejection is maintained as disclosed above. The claim is open-ended

Art Unit: 2154

(comprising) and has several different not-related content. Also, page 17, lines 7-11, clearly states, "While the present invention has been described in particular embodiments, it should be appreciated that the present invention should not be construed as limited by such embodiments, but rather construed according to the below claims". Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of these actions. In response to examiners objection of combining Choate and Nakajima, both the cited references Turner and Platenghe teach what the applicant is trying to accomplish, i.e., the claimed invention by the usage of preamble "automatically tracking content/software usage comprising". Choate also accommodates teachings from other prior arts. Also, The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of a primary reference. It is also not that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. In *re Keller*, 642 F.2d 414, 425, 208 USPQ 871, 881 (CCPA 1981); In *re Young*, 927 F.2d 588, 591, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991). Therefore, Choate in view of Nakajima meets the claimed limitations.

Applicant argues (6) prior art does not disclose "merging or not merging the usage data for same versions of software". The examiner disagrees. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies "merging or not merging the usage data for same versions of software" is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van*

Art Unit: 2154

Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore the rejection is maintained as disclosed above.

Applicant argues (7) that it is not well known in the prior art, the limitations, “evidence of a content usage indicator describing how much of a portion of content was utilize”, “software having a plurality of versions”, “merging the usage data for same version of software”, associating a unique identifier with said software program for at least two of said plurality of versions; and, wherein said content usage collected on said plurality of devices for said at least two versions of said software program is merged”, “associating a unique identifier with said usage data for at least two of said plurality of versions; and, wherein said content usage collected on said plurality of devices for said at least two versions of said usage data is merged”, and, “language versions”. The examiner disagrees. As cited in the previous office action, reference, U.S. Pub, US 2003/0046385 A1, Mar. 6, 2003, Marcus Vincent, and, IDS, Application Usage version 0.6 – 0.8.1, Benc Software Production teaches tracking of application usage. For example, Marcus Vincent, teaches the limitations, “evidence of a content usage indicator describing how much of a portion of content was utilize”, (e.g., tracking multimedia functions used within the multimedia application, abstract), “software having a plurality of versions”, (e.g., application name versus it’s version, paragraph 38), “merging the usage data for same version of software” (e.g., collecting tracked data for the same version, paragraphs 37 and 38), associating a unique identifier with said software program for at least two of said plurality of versions (e.g., addition of variables used for tracking an applications having versions, paragraphs 37 and 38); and, wherein said content usage collected on said plurality of devices (e.g., figure 1) for said at least two versions of said software program is merged” (e.g., collecting tracked data for the same

Art Unit: 2154

version, paragraphs 37 and 38), “associating a unique identifier with said usage data for at least two of said plurality of versions” (e.g., addition of variables used for tracking an applications having versions, paragraphs 37 and 38); and, wherein said content usage collected on said plurality of devices for said at least two versions of said usage data is merged, (e.g., collecting tracked data for the same version, paragraphs 37 and 38), and, “language versions”, (e.g., paragraph 37). Also, page 17, lines 7-11, clearly states, “While the present invention has been described in particular embodiments, it should be appreciated that the present invention should not be construed as limited by such embodiments, but rather construed according to the below claims”. Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of these actions. Therefore, the claimed limitations are met.

Applicant argues (8) Choate does not disclose limitations, “said usage data describe the amount of content associated with said software program was used during an execution of said program”, and, “segments”. The examiner disagrees. Choate clearly teaches said usage data describe the amount of content associated with said software program was used during an execution of said program (e.g., usage of the content file segments while execution of each individual segment, paragraph 20, col., 2), and, “segments”, (e.g., file segments, paragraph 20, col., 2). Since, page 17, lines 7-11, clearly states, “While the present invention has been described in particular embodiments, it should be appreciated that the present invention should not be construed as limited by such embodiments, but rather construed according to the below claims”. Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of these actions. Therefore, the claimed limitations are met.

Art Unit: 2154

Applicant argues (8) Davis et al. 5,796,952 (Hereinafter Davis) and applicant admitted prior art (AAPA) does not disclose limitations, “said first content identifier identifying a first portion of content related to said software program whose usage is to be measured”, “measuring usage for the first portion of content associated with said first content identifier”, “for a plurality of calls specifying a plurality of content identifiers that identify a respective plurality of portions of content”, The examiner disagrees. Davis discloses, “said first content identifier identifying a first portion of content related to said software program whose usage is to be measured”, (e.g., tracking program may monitor use of and interaction with any of the resources downloaded from a server, including an executable program, a database file, an interactive game, a multimedia application, and the like, col. 5, lines 4 – 10), “measuring usage for the first portion of content (e.g., content itself, col. 5, lines 4 – 10), associated with said first content identifier”, (e.g., tracking program may monitor use of and interaction with any of the resources downloaded from a server, including an executable program, a database file, an interactive game, a multimedia application, and the like, col. 5, lines 4 – 10), “for a plurality of calls specifying a plurality of content identifiers (e.g., within/part of the content itself, HTML tags etc, col. 5, lines 45 – 56), that identify a respective plurality of portions of content”, (e.g., tracking program may monitor use of and interaction with any of the resources downloaded from a server, including an executable program, a database file, an interactive game, a multimedia application, and the like, col. 5, lines 4 – 10). Since, page 17, lines 7-11, clearly states, “While the present invention has been described in particular embodiments, it should be appreciated that the present invention should not be construed as limited by such embodiments, but rather construed according to the

Art Unit: 2154

below claims". Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of these actions. Therefore, the claimed limitations are met.

Specification

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The present title is not sufficient for proper classification of the claimed subject matter.

Drawings

4. Applicant submitted modified figures 2 and 6 are acknowledged. Applicant is requested to submit the formal drawings.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 3, are rejected under 35 U.S.C. 102(e) as being anticipated by Choate "Method of and system for monitoring an application", US 2001/0054026 A1, Dec. 20, 2001.

7. As per claim 1, Choate teaches the following:

Art Unit: 2154

a method of automatically tracking content usage (e.g., use of Beacon Application for content monitoring method, abstract, paragraph 9, col., 1, audio/video contents, paragraph 31, col., 3) comprising the steps of:

a) accessing a first program call (e.g., APIs of the Beacon Application, paragraph 26, col., 3) having a parameter identifying (e.g., API identifier, paragraph 26, col., 3), a first portion of content whose usage is to be measured for content related to the calling program (e.g., Upon activation of the Tagged Applications utilizing the Application Key, the Beacon within Tagged Application 19 transmits Application Information to Application Metering Module 22, paragraph, 21, col., 2);

b) in response to said first program call, measuring usage for said first portion of content (e.g., tracking of segments of audio/video contents, paragraph 31, col., 3), wherein how much of the content is used is tracked (e.g., tracking of segments of audio/video contents, paragraph 31, col., 3),

c) repeating said steps a) and b) for additional portions of content to be measured, wherein content usage is tracked for a plurality of portions of content identified by a plurality of program calls (e.g., subsequent API calls having API identifiers to monitor audio/video contents, paragraphs 4 and 5, col., 1, paragraph 31, col., 3).

8. As per claim 3, Choate teaches the following:

said portions of content are segments in an electronic document (e.g., segments of a content file, abstract).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Choate in view of Bezick et al. 5,746,656 (Hereinafter Bezick).

11. As per claim 2, Choate teaches the claimed limitation as rejected under claim 1. Choate also mentions that the portions of the contents can be any data. However, Choate does not specifically mention about the portions of content are levels of a game. It is well-known in the prior art, for example, Bezick teaches portions of content are levels of a game, which can be tracked, col., 1, lines 19-34, col., 2, lines 43 – 58).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Choate with the teachings of Bezick in order to facilitate monitoring of the game levels. The tracking of the game levels would provide how the game performs, as suggested by Bezick.

12. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Choate in view of Nakajima et al. 6,442,699 (Hereinafter Nakajima).

13. As per claims 4 and 5, Choate teaches the claimed limitation as rejected under claim 1. Choate also mentions about automatic tracking of each content usage of a content/video file using API calls and API identifiers. However, Choate does not specifically mention about the use

Art Unit: 2154

of program calls to specifically indicate begin, end and stop of the portion of content. It is well known in the prior art, for example, Nakajima teaches the use of program calls to indicate begin, end and stop of the content portion (e.g., API calls to start, end, terminate video image, etc., figure 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Choate with the teachings of Nakajima in order to facilitate monitoring the portions of the content file using API calls at the begin, end and stop of the content portion. The API calls at begin, end and stop of the content portion would provide keeping track of when the content portion starts, when the content portion ends and when the content portion stops. The information of when the content portion starts, when the content portion ends and when the content portion stops would help monitor the time taken by each content portion which can be provided to the user, as suggested by Nakajima.

14. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Choate, Nakajima in view of "Official Notice".

15. As per claims 6-8, refer to the above-mentioned rejection of claims 4 and 5, for the limitations other than "use of measuring the number of processor cycles elapsed and content usage indicator describing the percent of content portion utilized", taught by combination of Choate and Nakajima. However, Choate and Nakajima do not specifically mention about the use of measuring the number of processor cycles elapsed and content usage indicator describing the percent of content portion utilized. "Official Notice" is taken that both the concept and

Art Unit: 2154

advantages of providing to measure the number of processor cycles elapsed and content usage indicator describing the percent of content portion utilized is well known and expected in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include measuring the number of processor cycles elapsed and content usage indicator describing the percent of content portion utilized with the teachings of Choate and Nakajima in order to facilitate a mechanism to calculate the amount of time taken by each content portion and content usage indicator describing the percent of content portion utilized. The information of time taken by each content portion and the information of the percentage amount of content portion utilization would be used by the monitoring application for producing statistic results for the user.

16. Claims 9 - 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Choate in view of "Official Notice".

17. As per claim 9, Choate teaches the claimed limitation as rejected under claim 1. Choate also teaches storing content usage data for each of plurality of portions of content and transferring usage data to a repository for reporting (e.g., usage of modules of the server to store segments of the content/video file, paragraph 30, col., 3). However, Choate do not specifically mention about tabulating the usage data. "Official Notice" is taken that both the concept and advantages of tabulating the usage data is well known and expected in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include tabulating the usage data with the teachings of Choate in order to facilitate a

Art Unit: 2154

mechanism to organize the collected usage data. The queries to the organized usage data will become simpler to generate statistic results for the user.

18. As per claims 10-13, Choate teaches the claimed limitation as rejected under claim 1. Choate also teaches storing content usage data and transferring usage data to a repository (e.g., usage of modules of the server to store segments of the content/video file, paragraph 30, col., 3), a plurality of devices executing a software program (e.g., application has been used on a workstation or group of workstations, paragraph 20, col., 2). However, Choate do not specifically mention about a software program having a plurality of versions and whether merging or not merging the collected usage data for same versions of the software. “Official Notice” is taken that both the concept and advantages of a software program having a plurality of versions and whether merging or not merging the collected usage data for same versions of the software is well known and expected in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a software program having a plurality of versions and whether merging or not merging the collected usage data for same versions of the software with the teachings of Choate in order to facilitate collecting and organizing usage data of a software program having multiple versions. The usage data of each version of the software will be merged to represent the usage data for the software itself regardless of its versions. The total usage data of the same software will be used to represent statistic results to the user.

Art Unit: 2154

19. As per claims 14 and 15, these claims are rejected as per claims 9-13. Choate teaches usage data describe the amount of content associated with said software program was used during an execution of said program (e.g., usage of the content file segments while execution of each individual segment, paragraph 20, col., 2). Choate also teaches usage data describe information selected from the group consisting of the number of times said software program was executed and the amount of time for which said software program was executed, e.g., number of times the application is run and for the time the application is run, paragraph, 10, col., 2).

20. Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al. 5,796,952 (Hereinafter Davis) in view of applicant's admitted prior art (AAPA).

21. As per claim 16, Davis teaches the following:

in a computer system having a processor coupled to a bus, a computer readable medium coupled to said bus and having stored therein a computer program that when executed by said processor causes said computer system to implement a method of automatically tracking content usage:

a) accessing a call from a software program (e.g., the tracking program), said call specifying a first content identifier, said first content identifier identifying a first portion of content (e.g., content itself, col. 5, lines 4 – 10), related to said software program whose usage is to be measured (e.g., the tracking program is implemented in a network based upon the client/server model, and may be implemented in a public network such as the Internet or World

Art Unit: 2154

Wide Web. The tracking program may monitor use of and interaction with any of the resources downloaded from a server, including an executable program, a database file, an interactive game, a multimedia application, and the like, col. 5, lines 4 – 10),

b) in response to said call, measuring usage for the first portion of content (e.g., content itself, col. 5, lines 4 – 10), associated with said first content identifier; (e.g., the tracking program is implemented in a network based upon the client/server model, and may be implemented in a public network such as the Internet or World Wide Web. The tracking program may monitor use of and interaction with any of the resources downloaded from a server, including an executable program, a database file, an interactive game, a multimedia application, and the like, col. 5, lines 4 – 10),

c) until said software program stops execution, repeating said steps a) through b) for a plurality of calls specifying a plurality of content identifiers, wherein said content usage is tracked for said plurality of content identifiers (e.g., within/part of the content itself, HTML tags etc, col. 5, lines 45 – 56), that identify a respective plurality of portions of content (e.g., The client also fetches the second executable program, which is the tracking program. The tracking program downloads to the client, and, after performing any required initialization, determines the current time. The tracking program also determines the current time upon the performance of a predetermined operation on the client computer by a user, such as leaving the HTML document. After calculating the amount of time the user interacted with and displayed the HTML document, i.e., by determining the difference in time values, the tracking program uploads the calculated value to the server for storage in the user profile database, col. 5, lines 45 – 56),

Art Unit: 2154

and d) outputting said content usage (e.g., to provide means for creating a database of user profiles for use by advertisers and/or marketers to determine the effectiveness and value of network-based advertisements and/or marketing resources, col. 4, lines 19 –24).

However, Davis does not specifically show collecting of data using program calls.

AAPA teaches the following:

accessing a program call (e.g., one conventional method of tracking application usage provides software which monitors application usage, page 1, lines 23 – 24).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Davis with the teachings of AAPA in order to facilitate an improved system and method to collect, store and share application usage related data over the internet.

22. As per claims 17-20, Davis teaches the following:

said portions of content are levels of a game (e.g., The tracking program may monitor use of and interaction with any of the resources downloaded from a server, including an executable program, a database file, an interactive game, a multimedia application, and the like. In the case of the Internet, for example, the tracked resource may, for example, be a file such as a Web page or part of a Web page (such as an ad banner), col. 5, lines 4 –10),

said portions of content are segments in an electronic document (e.g., The tracking program may monitor use of and interaction with any of the resources downloaded from a server, including an executable program, a database file, an interactive game, a multimedia application,

Art Unit: 2154

and the like. In the case of the Internet, for example, the tracked resource may, for example, be a file such as a Web page or part of a Web page (such as an ad banner), col. 5, lines 4 –10),

a1) accessing in said first program call a parameter indicating that usage measurement is to begin for said first portion of content; (e.g., START method. The START method will make note of the current time using standard JAVA methods (S408), col. 11, lines 12 – col.14, line 46),

b1) measuring the amount of time said first portion of content was used (e.g., START method. The START method will make note of the current time using standard JAVA methods (S408), col. 11, lines 12 – col.14, line 46), and

b2) accessing in a further call from said software program that usage measurement is to end for said first portion of content (e.g., The STOP method of the applet which is executed, col. 11, lines 12 – col.14, line 46),

d) accessing in a final call from said software program, a content usage indicator for a second content identifier of said plurality, said content usage indicator describing how much of said content related to said second content indicator was utilized during execution of said software program (e.g., Still another object of the present invention is to create a database of server resources including, but not limited to, the number of times a resource has been displayed by clients, the amount of time displayed, and the type and amount of information that was displayed or transferred. This information could be used by network administrators or servers to analyze the effectiveness of the resources made available on their network servers, col. 4, lines 11 – 18),

Art Unit: 2154

content usage indicator describes the percent of said second portion of content was utilized for said second content identifier (e.g., Still another object of the present invention is to create a database of server resources including, but not limited to, the number of times a resource has been displayed by clients, the amount of time displayed, and the type and amount of information that was displayed or transferred. This information could be used by network administrators or servers to analyze the effectiveness of the resources made available on their network servers, col. 4, lines 11 – 18).

Conclusion

The amended claims merely clarify the previously rejected claims over the same cited arts. In order to advance the prosecution, applicant is requested to amend the claims, to include, applicant's argued features (which, are still not claimed). The broadly claimed limitations, for example, claim 1, "repeating said steps a) and b) for additional portions of content", is not accomplishing what applicant is trying to achieve, since, steps a) and b) are performed on the same content, and not on the additional portions of the content. Even additional portions of content is not related to the content referred by the steps a) and b). Independent claims, 11 and 17, also contain similar types of broadly claimed limitations, which has much wider scope than what the applicant has represented the rational of the invention.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

Art Unit: 2154

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haresh Patel whose telephone number is (703) 605-5234. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday from 10:00 am to 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached at (703) 305-8498.

The appropriate fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Haresh Patel

October 26, 2004

A handwritten signature in black ink, appearing to read 'Haresh Patel', with a long horizontal flourish extending to the right.